

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI**

IN RE:

JA-CO FOODS, INC.

CHAPTER 11

CASE NO. 09-16017-DWH

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY OR IN THE
ALTERNATIVE ADEQUATE PROTECTION BY BANK OF VERNON.**

COMES NOW Bank of Vernon (hereinafter "Bank"), a secured creditor, and moves this Court to grant relief from the automatic stay pursuant to 11 U.S.C. §362 to allow Bank to foreclose upon real property upon which Bank has been granted a first priority deed of trust owned by Ernest L. Jacobsen and Donna Jacobsen as accommodation parties for Debtor and repossess and liquidate personal property upon which Bank has been granted a first priority security interest owned by JA-CO Foods, Inc. (hereinafter "Debtor"), security interest, or, in the alternative, for adequate protection pursuant to 11 U.S.C. §361, and in support of the motion states as follows:

JURISDICTION

1. This Court has jurisdiction over this proceeding pursuant to Title 28 U.S.C. §157(b)(2)(G) and 11 U.S.C. §361 and 11 U.S.C. §362. This is a core proceeding.
2. Bank of Vernon is an Alabama banking corporation with its principal offices in Vernon, Alabama.
3. Debtor is a Mississippi business corporation with its principal offices in Columbus, Mississippi.

4. Ernest L. Jacobsen and Donna Jacobsen are individuals residing in Columbus, Mississippi who have also filed a bankruptcy in the United States Bankruptcy Court for the Northern District of Mississippi in Case No. 09-15667-DWH.

PROCEDURAL HISTORY

5. On November 16, 2009, Debtor filed a Voluntary Petition for Relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §101, et seq.

6. The Debtor is currently managing its affairs as a Debtor-in-Possession pursuant to 11 U.S.C. §§1107 and 1108. No trustee or examiner has been appointed in the Debtor's case at this time.

7. No unsecured creditors committee has been appointed in the case at this time.

8. The first meeting of creditors was held, pursuant to 11 U.S.C. §341 on December 14, 2009.

NOTE 0779

9. On or about April 3, 2008, Debtor executed a renewal note to Bank (hereinafter "Note 0779") in the original principal amount of Six Hundred Two Thousand Fifty-seven and 16/100 Dollars (\$602,057.16) plus interest accruing at a fixed rate of seven percent (7%) with a maturity date of April 3, 2013, at which time the outstanding principal balance and accrued interest, fees and late charges would become due and payable. Bank Proof of Claim 1 of 3 designated Claim Number 32 in this proceeding in the amount of Three Hundred Thousand Three Hundred Nineteen and 09/100 Dollars (\$300,319.09) evidences said indebtedness and the related loan documents and is incorporated herein by reference. A true and correct copy of Note 0779 is attached to said Proof of Claim.

10. Debtor has failed to make the required monthly payments under the terms of Note 0799. As of November 16, 2009, the outstanding balance of Note 0779 was Three Hundred

Thousand Three Hundred Nineteen and 09/100 Dollars (\$300,319.09), as reflected in the affidavit attached to said Proof of Claim.

11. Note 0779 is secured by a first priority security interest in equipment described in the Exhibit "A" attached to the Security Agreement and is further secured by Bank Certificate of Deposit 60718 in the original principal amount of Three Hundred Twenty-nine Three Hundred Nine and 00/100 Dollars (\$329,309.00) (hereinafter "Collateral"). True and correct copies of said security agreement, financing statement and assignment regarding the same are attached to said Proof of Claim.

12. Bank estimates that a liquidation value related to the personal property securing Note 0779 excluding Certificate of Deposit 60718 is equal to approximately Twenty-five Thousand and 00/100 Dollars (\$25,000.00).

13. Note 0779 is cross-collateralized with Note 5888 and 5889 as subsequently discussed herein.

NOTE 5888

14. On or about January 24, 2008, Debtor executed a renewal note to Bank (hereinafter "Note 5888") in the original principal amount of One Hundred Twenty-two Thousand Seven Hundred Seventy-eight and 89/100 Dollars (\$122,778.89) plus interest accruing at a variable rate of Wall Street Prime plus one percent (1%) adjusted daily, which rate is currently four and one-quarter percent (4.25%), with a maturity date of January 23, 2015, at which time the outstanding principal and accrued interest, fees and late charges would become due and payable. Bank Proof of Claim 2 of 3 designated Claim Number 33 in this proceeding in the amount of Ninety-seven Thousand Nine Hundred Twenty-three and 68/100 Dollars (\$97,923.68) evidences said indebtedness and the related loan documents and is incorporated herein by reference. A true and correct copy of Note 5888 is attached to said Proof of Claim.

Debtor has failed to make the required monthly payments under the terms of Note 5888. As of November 16, 2009, the outstanding balance of Note 5888 was Ninety-seven Thousand Nine Hundred Twenty-three and 68/100 Dollars (\$97,923.68), as reflected in the affidavit attached to said Proof of Claim.

15. Note 5888 is secured by a first priority security interest in certain equipment of the Debtor described in the Exhibit "A" to the security agreement, a true and correct copy of which is attached to said Proof of Claim. Bank estimates the equipment pledged as collateral for Note 5888 to have a current liquidation value of Twenty-five Thousand and 00/00 Dollars (\$25,000.00).

16. Said Note is cross-collateralized with Note Nos. 5888 and 5889.

NOTE 5889

17. On or about October 31, 2008, Debtor executed a renewal note to Bank (hereinafter "Note 5889") in the original principal amount of Forty-two Thousand Six Hundred Six and 56/100 Dollars (\$42,606.56) plus interest accruing at a fixed rate of seven and one-half percent (7.5%) with a maturity date of October 30, 2010 at which time the outstanding principal and accrued interest fees and late charges became due and payable. Bank Proof of Claim 3 of 3 designated Claim Number 34 in this proceeding in the amount of Twenty-six Thousand Three Forty-six and 07/100 Dollars (\$26,346.07) evidences said indebtedness and the related loan documents and is incorporated herein by reference. A true and correct copy of Note 5889 is attached to said Proof of Claim as Exhibit "A."

18. Debtor has failed to make the required monthly payments under the terms of Note 5889. As of November 16, 2009, the outstanding balance of Note 5889 was Twenty-six Thousand Three Forty-six and 07/100 Dollars (\$26,346.07), as reflected in the affidavit attached to said Proof of Claim.

19. Note 5889 is secured by a first priority accommodation mortgage from Ernest L. Jacobsen and Donna Jacobsen on real property located in Lamar County, Alabama containing .61 acres more or less (hereinafter "Real Property"). A true and correct copy of said mortgage is attached to said Proof of Claim.

20. On or about May 14, 2008, Bank obtained an appraisal on the Real Property from Reabon Walker, a true and correct copy of which is attached hereto and incorporated herein as Exhibit "A." According to said appraisal, the fair market value of the Real Property as of said date was Thirty-six Thousand Six Hundred and 00/100 Dollars (\$36,600.00). However, due to the current economic conditions, the Bank estimates the current value of the Real Property to be approximately Twenty-five Thousand and 00/100 Dollars (\$25,000.00).

RELIEF REQUESTED

21. The real and personal property pledged to Bank as security for Note 5888, Note 5889 and Note 0779 ("Collateral") are subject to cross-collateralization provisions.

22. As of the petition date, the total amount of indebtedness due Bank was Four Hundred Twenty-four Thousand Eight-eight and 84/100 Dollars (\$424,088.84).

23. Upon information and belief, the total value of the Collateral pledged for all three (3) loans is Four Hundred Four Thousand Three Hundred Nine and 09/100 Dollars (\$404,309.09).

24. Accordingly, there is no equity in the Collateral for the benefit of the estate of the Debtor and retention of the same is burdensome for the Debtor.

25. The retention of the Collateral is not necessary for the successful and reorganization of the Debtor.

26. Debtor's has defaulted on payments on obligations to Bank and to provide Bank with adequate protection payments pursuant to 11 U.S.C. §361.

27. Unless Bank is granted relief from the automatic stay so as to permit recovery of the personal property, allow foreclosure of the Bank's mortgage upon Real Property and offset against the Certificate of Deposit or, in the alternative, receives adequate protection payments in the amount of Eight Thousand Five Hundred and 00/100 Dollars (\$8,500.00) per month beginning immediately, Bank will suffer irreparable harm and injury.

WHEREFORE, Bank moves this Honorable Court to enter an order granting to Bank relief under 11 U.S.C. §362 of the Bankruptcy Code so as to permit Bank to foreclose upon the Real Property securing its claims, in accordance with its mortgage and repossess and sell the personal property securing its claims as well as offset against the Certificate of Deposit securing its claims, and thereafter amend its claims for any deficiency balance which may thereafter remain, and in the alternative, enter an order for adequate protection under 11 U.S.C. §361 requiring the Debtor to immediately remit monthly adequate protection payments to Bank in the amount of Eight Thousand Five Hundred and 00/100 Dollars (\$8,500.00) and grant such other and further relief to the Bank which Bank may be entitled.

/s/ Justin B. Little

Justin B. Little
Attorney for Bank of Vernon
MS Code No. 102038

OF COUNSEL:

REYNOLDS, REYNOLDS & DUNCAN, LLC
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Our File No. 31.0408

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Relief from the Automatic Stay or in the Alternative Adequate Protection by Bank of Vernon has been served upon the following electronically and/or by first class United States mail, properly addressed with postage prepaid on February 15, 2010:

Craig M. Geno, Esq.
HARRIS, JERNIGAN & GENO, PLLC
Post Office Box 3380
Ridgeland, Mississippi 39158-3380

Melanie T. Vardaman, Esq.
HARRIS, JERNIGAN & GENL, LLC
Post Office Box 3380
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U.S. Trustee
100 West Capitol Street, Suite 706
Jackson, Mississippi 39269

/s/ Justin B. Little
Justin B. Little
Of Counsel for Bank of Vernon

EXHIBITS

5889

EXHIBIT

A

LAND APPRAISAL REPORT

File No. 3117 | Page 61

Buyer EARNEST L. JACOBSEN		Census Tract 9784		Mso Reference 11-05-10-4	
Property Address HIGHWAY 17 S.					
City VERNON		County LAMAR		State AL	
Legal Description SEE DEEDS ATTACHED				Zip Code 35592	
Sale Price \$ N/A		Date of Sale N/A		Loan Term UNION yrs.	
Actual Real Estate Taxes \$ 235.72		(b)		Property Rights Appraised <input checked="" type="checkbox"/> Fee <input type="checkbox"/> Unrestricted <input type="checkbox"/> De Minimis PUD	
Landlord/Clien BANK OF VERNON				Other sales concessions N/A	
Occupant VACANT COMM. LOT				Address P.O. BOX 302, VERNON, AL 35592	
Instructions to Appraiser TO ESTIMATE MARKET VALUE OF SUBJECT					

Location	<input type="checkbox"/> Urban	<input checked="" type="checkbox"/> Suburban	<input type="checkbox"/> Rural	Employment Stability	<input type="checkbox"/> Good	<input type="checkbox"/> Avg	<input type="checkbox"/> Fair	<input type="checkbox"/> Poor
Built Up	<input type="checkbox"/> Over 75%	<input checked="" type="checkbox"/> 25% to 75%	<input type="checkbox"/> Under 25%	Convenience to Employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Growth Rate	<input type="checkbox"/> Fully Dev.	<input type="checkbox"/> Rapid	<input type="checkbox"/> Stable	Convenience to Shopping	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Property Values	<input type="checkbox"/> Increasing	<input type="checkbox"/> Declining	<input type="checkbox"/> Stable	Convenience to Schools	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Demand/Supply	<input type="checkbox"/> Shortage	<input type="checkbox"/> In Balance	<input type="checkbox"/> Excess	Advisability of Public Transportation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marketup Item	<input type="checkbox"/> Under 3 Mos.	<input type="checkbox"/> 3-6 Mos.	<input type="checkbox"/> Over 6 Mos.	Recreational Facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Present Land Use	400± 1 Family	5± 2-4 Family	10± Acres	Advisability of Utilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2± Industrial	20± Vacant	1± Cadastral	Proximity from Commercial Conditions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Change in Present Land Use	<input checked="" type="checkbox"/> Not Likely	<input type="checkbox"/> Likely (?)		Police and Fire Protection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				General Appearance of Properties	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Protected Occupancy	<input type="checkbox"/> Owner	<input type="checkbox"/> Tenant	<input type="checkbox"/> Vacant	Appeal to Market	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Single Family Price Range	\$ 40,000	To	\$ 175,000					
Single Family Age	5 yrs. to	65 yrs.	Present Value \$ 60,000					
	42 yrs.							

Comments including Socio factors, location or urban/rural, affecting marketability (i.e. public park, schools, view, access). THERE ARE NO KNOWN FACTORS THAT WOULD AFFECT MARKETABILITY OF PROPERTIES IN THE NEIGHBORHOOD. THE PROXIMITY TO EMPLOYMENT, SCHOOLS, AND OTHER AMENITIES IS AVERAGE. THE APPEAL TO MARKET IS AVERAGE.

DISCUSSION SEE TAX MAP ATTACHED			
Zoning classification B-2, GENERAL BUSINESS		77 Sq. Ft. or Acres	<input type="checkbox"/> Corridor Lot
Height and lot size	<input type="checkbox"/> Present use	<input checked="" type="checkbox"/> Other (specify) COULD BE DEVELOPED FOR COMMERCIAL USE	<input type="checkbox"/> Present improvements <input checked="" type="checkbox"/> do <input type="checkbox"/> do not conform to zoning regulations
Public	<input type="checkbox"/> Off Street Improvements		
Electric	<input type="checkbox"/> Available	<input type="checkbox"/> Public	<input type="checkbox"/> Private
Gas	<input checked="" type="checkbox"/> Available	<input checked="" type="checkbox"/> Paved	
Water	<input checked="" type="checkbox"/> Available	<input type="checkbox"/> Public	<input type="checkbox"/> Private
Sewer	<input checked="" type="checkbox"/> Available	<input type="checkbox"/> Public	<input type="checkbox"/> Private
	<input type="checkbox"/> Storm Sewer	<input type="checkbox"/> On-Site	<input type="checkbox"/> Off-Site
	<input type="checkbox"/> Sewer	<input type="checkbox"/> Street Lights	
			<input type="checkbox"/> Is the property located in a HUB Identified Special Flood Hazard Area? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
			Comments (check if otherwise holding any option rights, easements, encumbrances, or other adverse conditions). THIS PROPERTY IS SUBJECT TO NORMAL UTILITY EASEMENTS, WHICH HAVE NO EFFECT ON THE VALUE OF THE PROPERTY. THE APPRAISER WAS NOT FURNISHED WITH A SURVEY. SEE TAX MAP ATTACHED.

The appraiser has noted three recent sales of properties most similar and proximate to subject and has considered them in the market analysis. The description includes a dollar adjustment reflecting market reaction to these items of significant variation between the subject and comparable properties. A + indicates items to the comparable property in excess of or lower than the subject property; a minus (-) indicates it made less money than the indicated value of subject; a - indicates items to the comparable in addition to or less favorable than the subject property; a plus (+) indicates it made less than the indicated value of the subject.

ITEM	SUBJECT PROPERTY	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Address	HIGHWAY 17 S. VERNON, AL 35592	HIGHWAY 18 W. VERNON, AL 35592	HIGHWAY 17 N. VERNON, AL 35592	HIGHWAY 18 W. VERNON, AL 35592
Property No/Address	0.31 miles	0.60 miles	0.28 miles	
Acres/Acre	N/A	\$ 135,000	\$ 60,000	\$ 15,000
Price/Acre	\$ 47,572	\$ 33,780	\$ 71,427	\$ 57,652
Data Source	PNSP/PUB RECORDS	PUBLIC RECORDS / SELLER	PUBLIC RECORDS / SELLER	OFFICE FILE / IN OFFICE SALE
Date of Sale and Total Assessment	04/17/2006	04/01/2004	05/24/2003	05/10/2003
Description	17 A+-R-Suburban	17 A+-R-Suburban	17 A+-R-Suburban	17 A+-R-Suburban
Lot/Size	4 ACRS +/- R-Suburban			
Improv.	GOOD	GOOD	GOOD	GOOD
ROAD SURFACE	GOOD	GOOD	GOOD	GOOD
UTILITIES	AVERAGE	AVERAGE	AVERAGE	AVERAGE
TOPO/SITE PREP	LEVEL / FAIR	SLOPPING / AVG.	+5.500 LEVEL / GOOD	-10.500 LEVEL / GOOD
OWNER	B-2	B-2	B-2	B-2
Sales or Financing Concessions	N/A CONV.	NONE CONV.	NONE CASH	NONE CASH
Ref. Ass. (Open)	+ <input checked="" type="checkbox"/> - <input type="checkbox"/>	+ <input type="checkbox"/> - <input checked="" type="checkbox"/>	+ <input type="checkbox"/> - <input checked="" type="checkbox"/>	+ <input type="checkbox"/> - <input checked="" type="checkbox"/>
Reduced Value of Subject	\$ 103,913	\$ 15,500	\$ 18,923	
	\$ 31,487	\$ 44,500	\$ 33,923	

Comments on Market Data: THE CLOSED SALES DISPLAYED WERE CAREFULLY SELECTED AND ARE CONSIDERED TO BE THE MOST COMPARABLE AND THE BEST INDICATIONS OF MARKET VALUE FOR THE SUBJECT PROPERTY. MOST WEIGHT IS GIVEN TO COMPARABLE # 1. THE SUBJECT PROPERTY'S COMPATIBILITY TO THE NEIGHBORHOOD IS GOOD.

Comments and Conditions of Appraisal: SEE ADDITIONAL COMMENTS ATTACHED. THIS IS A COMMERCIAL LOT APPRAISAL ONLY. THERE IS NO TIMBER VALUE INCLUDED IN THE BELOW ESTIMATED VALUE. LEGAL DESCRIPTION # 1 IS LESS AND EXCEPT LEGAL DESCRIPTION # 2. COMMERCIAL LOT SALES ARE SLOW FOR THIS MARKET AND THE VALUES HAVE DECLINED. THE LOT NEXT TO THE SUBJECT HAS BEEN LISTED AT \$ 35,000.00 FOR MORE THAN A YEAR WITH NO SALE.

Final Recommendation: ALL WEIGHT WAS GIVEN TO THE VALUE ESTIMATE DERIVED BY THE SALES COMPARISON APPROACH. THIS APPROACH BEST INDICATES BUYERS-SELLER ATTITUDES ON THE OPEN MARKET.

I ESTIMATE THE MARKET VALUE, AS DEFINED, OF SUBJECT PROPERTY AS \$ 67	MAY 14, 2003	To be \$ 38,600.00
<i>[Signature]</i>		
REASON WALKER	<input type="checkbox"/> Did	<input type="checkbox"/> Did Not Physically Inspect Property
Appraiser	Review Appraiser (if applicable)	

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